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HOUSE BILL 899

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Ben Lujan

AN ACT

RELATING TO GAMING; PROVIDING, IN CERTAIN CASES, FOR A
PERMANENT WAIVER FROM THE REQUIREMENT FOR A MANUFACTURER'S
LICENSE; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 60-2E-13 NMSA 1978 (being Laws 1997,
Chapter 190, Section 15, as amended) is amended to read:

"60-2E-13. ACTIVITIES REQUIRING LICENSING. --

A. A person shall not conduct gaming unless he is
licensed as a gaming operator.

B. A person shall not sell, supply or distribute
[any] a gaming device or associated equipment for use or play
in this state or for use or play outside of this state from a
location within this state unless he is licensed as a
distributor or manufacturer, but a gaming operator licensee may

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1 sell or trade in a gaming device or associated equipment to a
2 gaming operator licensee, distributor licensee or manufacturer
3 licensee.

4 C. Except as provided in Subsection D of this
5 section, a person shall not manufacture, fabricate, assemble,
6 program or make modifications to a gaming device or associated
7 equipment for use or play in this state or for use or play
8 outside of this state from any location within this state
9 unless he is a manufacturer licensee. A manufacturer licensee
10 may sell, supply or distribute only the gaming devices or
11 associated equipment that he manufactures, fabricates,
12 assembles, programs or modifies.

13 D. Upon receiving a written request from a person
14 who manufactures associated equipment, the board may waive the
15 requirement for a manufacturer's license on the terms and
16 conditions the board deems necessary as long as the waiver is
17 consistent with the purpose of the Gaming Control Act. A
18 waiver granted pursuant to this subsection may, if deemed
19 appropriate by the board, be a permanent waiver of the
20 licensing requirement for a manufacturer of associated
21 equipment or types of associated equipment.

22 E. Except as provided in Section 60-2E-13.1 NMSA
23 1978, a gaming operator licensee or a person other than a
24 manufacturer licensee or distributor licensee shall not possess
25 an unlicensed or illegal gaming device or possess or control a

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1 place where there is an unlicensed or illegal gaming device.
2 Any unlicensed or illegal gaming device, except a gaming
3 machine in the possession of a licensee while awaiting transfer
4 to a gaming operator licensee for licensure of the machine, or
5 as provided in Section 60-2E-13.1 NMSA 1978, is subject to
6 seizure and forfeiture pursuant to Section 30-19-10 NMSA 1978.

7 F. A person shall not service or repair a gaming
8 device or associated equipment unless he is licensed as a
9 manufacturer, is employed by a manufacturer licensee or is a
10 technician certified by a manufacturer licensee and employed by
11 a distributor licensee or a gaming operator licensee.

12 G. A person shall not engage in [~~any~~] an activity
13 for which the board requires a license or permit without
14 obtaining the license or permit.

15 H. Except as provided in Subsections B and D of
16 this section, a person shall not purchase, lease or acquire
17 possession of a gaming device or associated equipment except
18 from a distributor licensee or manufacturer licensee.

19 I. A distributor licensee may receive a percentage
20 of the amount wagered, the net take or other measure related to
21 the operation of a gaming machine as a payment pursuant to a
22 lease or other arrangement for furnishing a gaming machine, but
23 the board shall adopt a regulation setting the maximum
24 allowable percentage. "

25 Section 2. Section 60-2E-29 NMSA 1978 (being Laws 1997,

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1 Chapter 190, Section 31) is amended to read:

2 "60-2E-29. LICENSING OF MANUFACTURERS OF GAMING
3 DEVICES--EXCEPTION--DISPOSITION OF GAMING DEVICES.--

4 A. It is unlawful for any person to operate, carry
5 on, conduct or maintain any form of manufacturing of any gaming
6 device or associated equipment for use or play in New Mexico or
7 any form of manufacturing of any gaming device or associated
8 equipment in New Mexico for use or play outside of New Mexico
9 without first obtaining and maintaining a manufacturer's
10 license or a waiver, granted by the board, of the requirement
11 for a manufacturer's license.

12 B. If the board revokes a manufacturer's license:

13 (1) no new gaming device manufactured by the
14 manufacturer may be approved for use in this state;

15 (2) any previously approved gaming device
16 manufactured by the manufacturer is subject to revocation of
17 approval if the reasons for the revocation of the license also
18 apply to that gaming device;

19 (3) no new gaming device or associated
20 equipment made by the manufacturer may be distributed, sold,
21 transferred or offered for use or play in New Mexico; and

22 (4) any association or agreement between the
23 manufacturer and a distributor licensee or gaming operator
24 licensee in New Mexico shall be terminated.

25 C. An agreement between a manufacturer licensee and

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1 a distributor licensee or a gaming operator licensee in New
2 Mexico shall be deemed to include a provision for its
3 termination without liability for the termination on the part
4 of either party upon a finding by the board that either party
5 is unsuitable. Failure to include that condition in the
6 agreement is not a defense in any action brought pursuant to
7 this section to terminate the agreement.

8 D. A gaming device shall not be used and offered
9 for play by a gaming operator licensee unless it is identical
10 in all material aspects to a model that has been specifically
11 tested and approved by:

- 12 (1) the board;
 - 13 (2) a laboratory selected by the board; or
 - 14 (3) gaming officials in Nevada or New Jersey
- 15 for current use.

16 E. The board may inspect every gaming device that
17 is manufactured:

- 18 (1) for use in New Mexico; or
 - 19 (2) in New Mexico for use outside of New
- 20 Mexico.

21 F. The board may inspect every gaming device that
22 is offered for play within New Mexico by a gaming operator
23 licensee.

24 G. The board may inspect all associated equipment
25 that is manufactured and sold for use in New Mexico or

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1 manufactured in New Mexico for use outside of New Mexico.

2 H. In addition to all other fees and charges
3 imposed pursuant to the Gaming Control Act, the board may
4 determine, charge and collect from each manufacturer an
5 inspection fee, which shall not exceed the actual cost of
6 inspection and investigation.

7 I. The board may prohibit the use of a gaming
8 device by a gaming operator licensee if it finds that the
9 gaming device does not meet the requirements of this section."

10 Section 3. Section 60-2E-30 NMSA 1978 (being Laws 1997,
11 Chapter 190, Section 32, as amended) is amended to read:

12 "60-2E-30. LICENSING OF DISTRIBUTORS OF GAMING DEVICES. --

13 A. It is unlawful for [~~any~~] a person to operate,
14 carry on, conduct or maintain any form of distribution of [~~any~~]
15 a gaming device for use or play in New Mexico or any form of
16 distribution of [~~any~~] a gaming device in New Mexico for use or
17 play outside of New Mexico without first obtaining and
18 maintaining a distributor's or manufacturer's license or a
19 waiver, granted by the board, of the requirement for a
20 manufacturer's license.

21 B. If the board revokes a distributor's license:

22 (1) no new gaming device distributed by the
23 person may be approved;

24 (2) any previously approved gaming device
25 distributed by the distributor is subject to revocation of

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1 approval if the reasons for the revocation of the license also
2 apply to that gaming device;

3 (3) no new gaming device or associated
4 equipment distributed by the distributor may be distributed,
5 sold, transferred or offered for use or play in New Mexico; and

6 (4) [~~any~~] an association or agreement between
7 the distributor and a gaming operator licensee shall be
8 terminated. An agreement between a distributor licensee and a
9 gaming operator licensee shall be deemed to include a provision
10 for its termination without liability on the part of either
11 party upon a finding by the board that the other party is
12 unsuitable. Failure to include that condition in the agreement
13 is not a defense in any action brought pursuant to this section
14 to terminate the agreement.

15 C. The board may inspect every gaming device that
16 is distributed for use in New Mexico.

17 D. In addition to all other fees and charges
18 imposed by the Gaming Control Act, the board may determine,
19 charge and collect from each distributor an inspection fee,
20 which shall not exceed the actual cost of inspection and
21 investigation. "

22 Section 4. EMERGENCY.--It is necessary for the public
23 peace, health and safety that this act take effect immediately.